

NOTE CHANGES MADE BY THE COURT

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ROY JONES and ALYCE
RUBINFELD, individually and on
behalf of a class of similarly situated
individuals,

Plaintiffs,

v.

PORSCHE CARS NORTH
AMERICA, INC.,

Defendant.

Civil Action No.: 2:15-CV-05766-GW-SS
Assigned to the Hon. George H. Wu

Discovery Document: Referred to
Magistrate Judge Suzanne H. Segal

**[PROPOSED] ORDER GRANTING
JOINT STIPULATION FOR
PROTECTIVE ORDER**

NOTE CHANGES MADE BY THE COURT

Having considered Plaintiffs Roy Jones and Alyce Rubinfeld and Defendant Porsche Cars North America, Inc.'s ("PCNA") Joint Stipulation for Protective Order, and GOOD CAUSE appearing, IT IS HEREBY ORDERED that the following rules and procedures shall govern the handling of confidential information during this litigation:

1. BACKGROUND

A. Purposes and Limitations

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public

1 disclosure and from use for any purpose other than prosecuting this litigation is
2 warranted. Accordingly, the parties hereby stipulate to and petition the Court to
3 enter the following Stipulated Protective Order. The parties acknowledge that this
4 Order does not confer blanket protections on all disclosures or responses to
5 discovery and that the protection it affords from public disclosure and use extends
6 only to the limited information or items that are entitled to confidential treatment
7 under the applicable legal principles. The parties further acknowledge, as set forth
8 in Section 12.3, below, that this Stipulated Protective Order does not entitle them
9 to file confidential information under seal; Civil Local Rule 79-5 sets forth the
10 procedures that must be followed and the standards that will be applied when a
11 party seeks permission from the court to file material under seal.

12 **B. Good Cause Statement**

13 This action is likely to involve confidential, business sensitive, and/or
14 proprietary information for which special protection from public disclosure and
15 from use for any purpose other than prosecution of this action is warranted. Such
16 confidential and proprietary materials and information consist of, among other
17 things, trade secrets, confidential business or financial information, information
18 regarding confidential business practices, or other confidential research,
19 development, technical, marketing, planning or commercial information (including
20 information implicating privacy rights of third parties), personal and private
21 information regarding owners and lessees of Porsche vehicles, information
22 otherwise generally unavailable to the public, and/or which may be privileged or
23 otherwise protected from disclosure under state or federal statutes, court rules, case
24 decisions, or common law. Private and personal information includes street
25 addresses and former street addresses for natural persons, Social Security numbers,
26 telephone numbers, email addresses, dates of birth, driver's license numbers,
27 account numbers, maiden names, and passwords. Accordingly, to expedite the
28 flow of information, to facilitate the prompt resolution of disputes over

1 confidentiality of discovery materials, to adequately protect information the parties
2 are entitled to keep confidential, to ensure that the parties are permitted reasonable
3 necessary uses of such material in preparation for and in the conduct of trial, to
4 address their handling at the end of the litigation, and serve the ends of justice, a
5 protective order for such information is justified in this matter. To the extent any
6 party believes that another country's law or procedural rule provides applicable
7 protections that vary from the Federal Rules of Civil Procedure, such party will
8 provide notice of that other country's law or procedural rule and of its applicability
9 to documents that are not otherwise protected by United States law or procedure.
10 It is the intent of the parties that information will not be designated as confidential
11 for tactical reasons and that nothing be so designated without a good faith belief
12 that it has been maintained in a confidential, non-public manner, and there is good
13 cause why it should not be part of the public record of this case.

14 **2. DEFINITIONS**

15 2.1 Action: means *Roy Jones, et al. v. Porsche Cars North America, Inc.*,
16 pending in the United States District Court, Central District of California, Case No.
17 2:15-cv-05766-GW-SS.

18 2.2 Challenging Party: a Party or Non-Party that challenges the
19 designation of information or items under this Order.

20 2.3 "CONFIDENTIAL" Information or Items: information (regardless of
21 how it is generated, stored, or maintained) or tangible things that qualify for
22 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
23 the Good Cause Statement.

24 2.4 Counsel: Outside Counsel of Record and House Counsel, as defined
25 below (including support staff).

26 2.5 Designating Party: a Party or Non-Party that designates information or
27 items that it produces in disclosures or in responses to discovery as
28 "CONFIDENTIAL."

1 2.6 Disclosure or Discovery Material: all items or information, regardless
2 of the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced
4 or generated in disclosures or responses to discovery in this matter.

5 2.7 Expert: a person with specialized knowledge or experience in a matter
6 pertinent to the litigation who has been retained by a Party or its counsel to serve
7 as an expert witness or as a consultant in this Action.

8 2.8 House Counsel: attorneys who are employees of a party to this Action.
9 House Counsel does not include Outside Counsel of Record or any other outside
10 counsel.

11 2.9 Non-Party: any natural person, partnership, corporation, association,
12 or other legal entity not named as a Party to this Action.

13 2.10 Outside Counsel of Record: attorneys who are not employees of a
14 party to this Action, but are retained to represent or advise a party to this Action
15 and have appeared in this Action on behalf of that party, or are affiliated with a law
16 firm which has appeared on behalf of that party, and includes support staff.

17 2.11 Party: any party to this Action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).

20 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
21 Discovery Material in this Action.

22 2.13 Professional Vendors: persons or entities that provide litigation
23 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
24 demonstrations, and organizing, storing, or retrieving data in any form or medium)
25 and their employees and subcontractors.

26 2.14 Protected Material: any Disclosure or Discovery Material that is
27 designated as "CONFIDENTIAL."
28

1 2.15 Receiving Party: a Party that receives Disclosure or Discovery
2 Material from a Producing Party.

3 **3. SCOPE**

4 The protections conferred by this Stipulation and Order cover not only
5 Protected Material (as defined above), but also: (1) any notes, lists, memoranda, or
6 information copied or extracted from Protected Material; (2) all copies, excerpts,
7 summaries, or compilations of Protected Material; and (3) any testimony,
8 conversations, or presentations by Parties or their Counsel that might reveal
9 Protected Material. Discovery Material containing Confidential Information shall
10 be used solely in connection with proceedings in this litigation, including any
11 appeal and shall not lose its status as Confidential through such use. Counsel shall
12 comply with all applicable local rules and shall confer on procedures that are
13 necessary to protect the confidentiality of such material. Any use of Protected
14 Material at trial shall be governed by the orders of the trial judge. This Order does
15 not govern the use of Protected Material at trial.

16 **4. DURATION**

17 Even after final disposition of this litigation, the confidentiality obligations
18 imposed by this Order shall remain in effect until a Designating Party agrees
19 otherwise in writing or a court order otherwise directs. Final disposition shall be
20 deemed to be the later of: (1) dismissal of all claims and defenses in this Action,
21 with or without prejudice; and (2) final judgment herein after the completion and
22 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
23 including the time limits for filing any motions or applications for extension of
24 time pursuant to applicable law. The Court retains jurisdiction even after final
25 disposition of this litigation to enforce this Protective Order and to make such
26 amendments, modifications, deletions, and additions to this Protective Order.

subject to
LR. 79-7 *(S/S)*

27 **5. DESIGNATING PROTECTED MATERIAL**

28 5.1 Exercise of Restraint and Care in Designating Material for Protection.

1 Each Party or Non-Party that designates information or items for protection under
2 this Order must take care to limit any such designation to specific material that
3 qualifies under the appropriate standards. The Designating Party must designate
4 for protection only those parts of material, documents, items, or oral or written
5 communications that qualify so that other portions of the material, documents,
6 items, or communications for which protection is not warranted are not swept
7 unjustifiably within the ambit of this Order. Mass, indiscriminate, or routinized
8 designations are prohibited. Designations that are shown to be clearly unjustified
9 or that have been made for an improper purpose (e.g., to unnecessarily encumber
10 the case development process or to impose unnecessary expenses and burdens on
11 other parties) may expose the Designating Party to sanctions. If it comes to a
12 Designating Party's attention that information or items that it designated for
13 protection do not qualify for protection that Designating Party must promptly
14 notify all other Parties that it is withdrawing the inapplicable designation.

15 5.2 Manner and Timing of Designations. Except as otherwise provided in
16 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
17 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
18 under this Order must be clearly so designated before the material is disclosed or
19 produced.

20 Designation in conformity with this Order requires:

21 (a) for information in documentary form (e.g., paper or electronic
22 documents, but excluding transcripts of depositions or other pretrial or trial
23 proceedings), that the Producing Party affix the legend "CONFIDENTIAL – Roy
24 Jones et al. v. Porsche Cars North America, Inc. – Case No. 2:15-cv-05766-GW-
25 SS" (hereinafter "CONFIDENTIAL legend"), to each page that contains protected
26 material. If only a portion or portions of the material on a page qualifies for
27 protection, the Producing Party also must clearly identify the protected portion(s)
28 (e.g., by making appropriate markings in the margins). The Receiving Party shall

1 exercise good faith efforts to ensure that copies it makes of Discovery Material
2 produced to it, and copies made by others who obtained such Discovery Material
3 directly or indirectly from the Receiving Party, also include the CONFIDENTIAL
4 legend.

5 A Party or Non-Party that makes original documents available for inspection
6 need not designate them for protection until after the inspecting Party has indicated
7 which documents it would like copied and produced. During the inspection and
8 before the designation, all of the material made available for inspection shall be
9 deemed "CONFIDENTIAL." After the inspecting Party has identified the
10 documents it wants copied and produced, the Producing Party must determine
11 which documents, or portions thereof, qualify for protection under this Order.
12 Then, before producing the specified documents, the Producing Party must affix
13 the "CONFIDENTIAL legend" to each page that contains Protected Material. If
14 only a portion or portions of the material on a page qualifies for protection, the
15 Producing Party also must clearly identify the protected portion(s) (e.g., by making
16 appropriate markings in the margins).

17 (b) for testimony given in depositions or other pre-trial testimony,
18 designation of the portion of the transcript (including exhibits) which contains
19 Confidential Information shall be made (i) by a statement to such effect on the
20 record during the proceeding in which the testimony is received, or (ii) written
21 notice served on counsel of record in this Action within thirty (30) days after the
22 receipt of the transcript of such proceeding. During the thirty (30) day period, all
23 testimony, exhibits, and transcripts shall be considered confidential. The court
24 reporter shall operate in a manner consistent with this Order and shall separately
25 label the confidential portions of the deposition transcript, including documents
26 and other exhibits containing confidential information.

27 (c) for information produced in some form other than documentary
28 and for any other tangible items (i.e., non-written materials), that the Producing

1 Party affix in a prominent place on the exterior of the container or containers in
2 which the information is stored the CONFIDENTIAL legend. If only a portion or
3 portions of the information warrants protection, the Producing Party, to the extent
4 practicable, shall identify the protected portion(s). In addition, the Producing Party
5 shall use its best efforts to affix the legend to any electronic, visual, or other
6 medium so that the legend is visible while the medium is being viewed. These
7 provisions also apply to any copies or excerpts of such non-written material.

8 5.3 Inadvertent Failures to Designate. An inadvertent failure to designate
9 information or items as confidential does not constitute a waiver of the right to
10 secure protection under this Order for such material. This failure may be remedied
11 by providing written notice to the other party within ten (10) days upon discovery
12 of the inadvertent disclosure and providing properly designated replacement
13 documents or materials, with the effect that such Discovery Material will be
14 subject to the provisions of this Order. The non-designated Discovery Material
15 shall be promptly returned to the Designating Party or destroyed.

16 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

17 6.1 Timing of Challenges. Any Party or may challenge a designation of
18 confidentiality at any time that is consistent with the Court's Scheduling Order.

19 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
20 resolution process under Local Rule 37.1 et seq.

21 6.3 The burden of persuasion in any such challenge proceeding shall be
22 on the Designating Party. Frivolous challenges, and those made for an improper
23 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
24 parties) may expose the Challenging Party to sanctions. All parties shall continue
25 to afford the material in question the level of protection to which it is entitled
26 pursuant to this Order until the Court rules on the challenge.

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28 ///

1 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

2 7.1 Basic Principles. A Receiving Party may use Protected Material that
3 is disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending, or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under
6 the conditions described in this Order. When the Action has been terminated, a
7 Receiving Party must comply with the provisions of Section 14 below (FINAL
8 DISPOSITION).

9 Protected Material must be stored and maintained by a Receiving Party at a
10 location and in a secure manner that ensures that access is limited to the persons
11 authorized under this Order.

12 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
13 otherwise ordered by the court or permitted in writing by the Designating Party, a
14 Receiving Party may disclose any information or item designated
15 "CONFIDENTIAL" only to:

16 (a) the Receiving Party's Outside Counsel of Record in this Action, as
17 well as employees of said Outside Counsel of Record to whom it is reasonably
18 necessary to disclose the information for this Action;

19 (b) the officers, directors, and employees (including House Counsel)
20 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

21 (c) Experts (as defined in this Order) of the Receiving Party to whom
22 disclosure is reasonably necessary for this Action and who have signed the
23 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

24 (d) the court and its personnel;

25 (e) court reporters and their staff;

26 (f) professional jury or trial consultants, mock jurors, and Professional
27 Vendors to whom disclosure is reasonably necessary for this Action and who have
28 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) during their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any confidential information unless they sign the "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

**8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
PRODUCED IN OTHER LITIGATION**

If a Party or Non-Party is served with a subpoena, court order, discovery request, or any other demand ("Demand") that compels disclosure of any information or items designated in this Action as "CONFIDENTIAL," that Party or Non-Party must:

(a) notify in writing the Designating Party within three (3) business days, if the Protected Material was produced or designated as Confidential by someone other than the Party or Non-Party receiving a Demand. Such notification shall include a copy of the Demand;

(b) notify in writing within three (3) business days, the party who caused the Demand to issue in the other litigation that some or all of the material covered by the Demand is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

///

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

The Party or Non-Party served with the Demand shall not produce any information designated in this action as "CONFIDENTIAL" before a determination by the court from which the Demand issued, unless the Party or Non-Party has obtained the Designating Party's permission. The Designating Party shall bear the burden and expense of timely seeking protection in that court of its confidential material. If a judge of a court of competent jurisdiction issues an order directing production of Confidential Information pursuant to the Demand, then compliance with that order shall not constitute a violation of this Order. Nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) Any party issuing a subpoena to a Non-Party shall enclose a copy of this Protective Order with a request that, within ten (10) calendar days, the Non-Party either request protection of this Protective Order, or notify the issuing party that the Non-Party does not need protection of this Protective Order or seeks different protection.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit

1 A.

2 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR**
 3 **OTHERWISE PROTECTED MATERIAL**

4 When a Producing Party gives notice to Receiving Parties that certain
 5 inadvertently produced material is subject to a claim of privilege or other
 6 protection, the obligations of the Receiving Parties are those set forth in Federal
 7 Rule of Civil Procedure 26(b)(5)(B). The inadvertent production of such material,
 8 including Protected Material, shall not constitute a waiver of Producing Party's
 9 claim in this Action or otherwise that such material is privileged or otherwise non-
 10 discoverable and this Order is intended to provide the full protection afforded by
 11 Federal Rule of Evidence 502(d).

12 **12. REDACTION ALLOWED**

13 Any Producing Party may redact from documents and things it produces any
 14 information, text, or other matter that the Producing Party claims is subject to
 15 attorney-client privilege, work product immunity, a legal prohibition against
 16 disclosure, private and personal information as identified in Section 1.B., except to
 17 the extent it is necessary for class certification. The Producing Party shall mark
 18 each thing where the matter has been redacted with a legend stating
 19 "REDACTED," as appropriate, or a comparable notice. Where a document
 20 consists of more than one page, each page on which information has been redacted
 21 shall be so marked.

22 **13. MISCELLANEOUS**

23 13.1 Right to Further Relief. Nothing in this Order abridges the right of
 24 any person to seek other relief or further relief from the Court in the future with
 25 respect to this Order.

26 13.2 Right to Assert Other Objections. By stipulating to the entry of this
 27 Protective Order no Party waives any right it otherwise would have to object to
 28 disclosing or producing any information or item on any ground not addressed in

1 this Stipulated Protective Order. Similarly, no Party waives any right to object on
2 any ground to use in evidence of any of the material covered by this Protective
3 Order.

4 13.3 Filing Protected Material. The Parties will comply with Civil Local
5 Rule 79-5 to file Protected Material under seal. Protected Material may only be
6 filed under seal pursuant to a court order authorizing the sealing of the specific
7 Protected Material at issue. If a Party's request to file Protected Material under
8 seal is denied by the court, then the Receiving Party may file the information in the
9 public record unless otherwise instructed by the court.

10 13.4 Additional Parties. In the event additional parties join or intervene in
11 this Action, they shall not have access to Confidential Information until its counsel
12 has executed its Agreement to be fully bound by this Order. If any additional
13 attorneys make appearances in this Litigation, those attorneys shall not have access
14 until they execute the Agreement.

15 13.5 Headings. The headings herein are provided only for convenience of
16 the parties, and are not intended to define or limit the scope of the terms of this
17 Order.

18 **14. FINAL DISPOSITION**

19 Within sixty (60) days after the final disposition of this Action, as defined in
20 Section 4, each Receiving Party must return all Protected Material to the Producing
21 Party or destroy such material. As used in this subdivision, "all Protected
22 Material" includes all copies, abstracts, compilations, summaries, and any other
23 format reproducing or capturing any of the Protected Material. Whether the
24 Protected Material is returned or destroyed, the Receiving Party, which includes all
25 persons identified in Section 7.2, excluding the Court, court personnel and court
26 reporters, must submit a written certification to the Producing Party (and, if not the
27 same person or entity, to the Designating Party) by the sixty (60) day deadline that
28 (1) identifies (by category, where appropriate) all the Protected Material that was

1 returned or destroyed and (2) affirms that the Receiving Party has not retained any
 2 copies, abstracts, compilations, summaries or any other format reproducing or
 3 capturing any of the Protected Material. Notwithstanding this provision, Counsel
 4 are entitled to retain an archival copy of all pleadings, motion papers, trial,
 5 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
 6 and trial exhibits, expert reports, attorney work product, and consultant and expert
 7 work product, even if such materials contain Protected Material. Any such
 8 archival copies that contain or constitute Protected Material remain subject to this
 9 Protective Order as set forth in Section 4 (DURATION). *and LR 79-7.*

10 **15. VIOLATIONS OF PROTECTIVE ORDER.** SKS

11 Any violation or threatened violation of this Order may be punished by any
 12 and all appropriate measures including, without limitation, contempt proceedings
 13 and/or monetary sanctions.

14
 15 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

16
 17 Dated: *1/27/16*

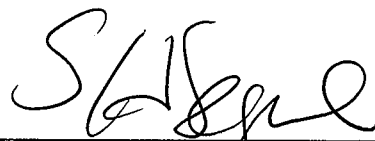
18 
 19 Hon. Suzanne H. Segal
 20 United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury
that I have read in its entirety and understand the Stipulated Protective Order that
was issued by the United States District Court for the Central District of California
on [date] in the case of *Roy Jones, et al. v. Porsche Cars North America, Inc.*,
2:15-cv-05766-GW-SS. I agree to comply with and to be bound by all the terms of
this Stipulated Protective Order and I understand and acknowledge that failure to
so comply could expose me to sanctions and punishment in the nature of contempt.
I solemnly promise that I will not disclose in any manner any information or item
that is subject to this Stipulated Protective Order to any person or entity except in
strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District
Court for the Central District of California for the purpose of enforcing the terms
of this Stipulated Protective Order, even if such enforcement proceedings occur
after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____